

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

CHRISTOPHER T. ST. JOHN,

Defendant.

8:19CR234

ORDER

This matter is before the Court on Defendant Christopher T. St. John's ("Defendant") Motion for Release from Pretrial Detention. ([Filing No. 57.](#)) The government and U.S. Pretrial Services object to the motion.

A hearing on the motion was held on June 18, 2020, at which time the Court took judicial notice of Defendant's motion and Sealed Motion to Supplement Filing #57. ([Filing No. 60.](#)) Attorney Patrick C. McGee appeared on behalf of the government and objected to Defendant's motion on the government's behalf. Defendant appeared with his attorney, Brent M. Bloom. Lisa Caviness appeared on behalf of Pretrial Services and stated Pretrial's objection to the motion on the record. After hearing argument, the Court took the matter under advisement to allow the Court time to review case law cited by defense counsel at the hearing.

Defendant was indicted on July 17, 2019. ([Filing No. 1.](#)) Defendant was charged with Conspiracy to Distribute and Possession with Intent to Distribute 500 grams or more of methamphetamine. Defendant is facing a mandatory minimum of ten years to life imprisonment, a \$10,000,000 fine, and no less than 5 years of supervised release. Defendant had his initial appearance on the charge on July 19, 2019, and was detained following the hearing based on being a flight risk and danger to another person and the community.

In support of his Motion for Release, Defendant argues that due to the COVID-19 pandemic, circumstances have materially changed since the time of the Court's June 19, 2019

order of detention. Defendant contends that because he suffers from asthma,¹ he is at higher risk to get seriously ill if he contracts COVID-19. Defendant contends the conditions of his pretrial confinement at CCA/CorCivic Leavenworth (CCA) create the ideal environment for transmission of COVID-19 and, therefore, there is a compelling reason for his release under 18 U.S.C. § 3142(i). Defendant requests he be released to his mother, who resides in Mississippi. Alternatively, Defendant asks that he be released to a friend, who lives in Omaha, Nebraska. The government and Pretrial object to Defendant's motion, arguing that Defendant remains a flight risk and danger to the community, and that COVID-19 does not change the conclusion that Defendant should not be released from custody.

At the hearing, the Court found on the record that due to the nature of the charges, the amount of time Defendant is facing, and Defendant's prior record, he is still a flight risk and danger to persons and the community. Therefore, the question is whether Defendant's medical condition and COVID-19 warrant Defendant's pretrial release even though he is a flight risk and danger to the community. The Court concludes it does not.

Defendant argues that due to the conditions at CCA and his asthma he is at higher risk of getting very sick from COVID-19, if he were to get the virus. The CDC does list those with moderate to severe asthma as higher risk of getting very sick from COVID-19. (<https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/asthma.html>.)² However, the medical records submitted by Defendant do not indicate the severity of Defendant's asthma, so the Court does not know if Defendant has mild, moderate or severe asthma. In addition, Defendant did not mention he suffered from asthma when he was interviewed by Pretrial in this case. Defendant only indicated he had a pinched nerve. In looking at Defendant's medical records, it appears that when Defendant is not incarcerated, he does not take his medication for asthma regularly. This has now changed since he has been at CCA. It appears from the medical records from CCA that all of Defendant's medical needs, including his asthma, are being addressed and

¹ Defendant's motion lists several health conditions as supporting his release. However, the Court required Defendant to submit medical documentation regarding Defendant's stated health conditions. The records produced supported the medical conditions of asthma and acid reflux. The Court found on the record that asthma is the only condition he has relevant to COVID-19. Therefore, the other health conditions listed in Defendant's motion will not be addressed in this Order.

² The court would note if Defendant has moderate or severe asthma, this puts him in the higher risk category regardless of whether he resides at CCA or on release in the community.

treated. This is exactly what the CDC indicates needs to be occurring with someone who has Asthma.

Moreover, there was no indication in Defendant's motion if any inmates of staff at CCA have tested positive for the virus. The Court did inquire of the Marshal's whether there have been any positive test results at CCA. The Marshal's office reported that no staff or inmates at CCA have tested positive for COVID-19. All parties were informed of this information at the hearing and allowed to respond.

The Court is aware of the unprecedented magnitude of the COVID-19 pandemic and the serious health risks that it presents. The Court is also aware that certain individuals due to age and/or medical condition are at a higher risk for sever symptoms if they contract the virus. However, a defendant should not be entitled to pretrial release and/or temporary release under § 3142(i) based solely on COVID-19 fears, possibility and speculation. There is no evidence that Defendant is more at risk at CCA then in the community. It appears Defendant is getting very good medical care and the medication needed for his asthma at CCA. There is no reason to think this would not continue if Defendant were to get the COVID-19.

Based on all of the reasons the court stated on the record at the hearing, and the reasons stated above the court does not find that Defendant's release is necessary due to the COVID-19 pandemic.

Accordingly,

IT IS ORDERED that Defendant Christopher T. St. John's Motion for Release from Pretrial Detention ([Filing No. 57](#)) is denied.

Dated this 24th day of June, 2020.

BY THE COURT:

s/ Susan M. Bazis
United States Magistrate Judge